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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,261	11/28/2000	D. David Nason	59312-58	8302
22504 7590 11/01/2007 DAVIS WRIGHT TREMAINE, LLP/Seattle 1201 Third Avenue, Suite 2200 SEATTLE, WA 98101-3045			EXAMINER RICHER, AARON M	
			ART UNIT 2628	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/726,261

Applicant(s)

NASON ET AL.

Examiner

Aaron M. Richer

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claims 12-17 are objected to because of the following informalities: These claims all recite, or refer back to, "A computer readable media...", which is grammatically incorrect. Claim 12 should read "A computer readable medium...", and the claims depending from claim 12 should read "The computer readable medium...". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 8-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims recite a "system" comprising "a programming interface" and "a display filter". These terms do not have hardware support in the specification, and instead appear to be referring to software, which would make the system claimed a program, per se. A computer program falls under the category of "functional descriptive material" and does not fall under any of the four categories of patentable subject matter as set forth by 35 USC 101. See MPEP 2106.01, which states:

Art Unit: 2628

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

The invention recited in claims 8-11 is a program, per se, as opposed to a computer-readable medium with a program recorded thereon, and is therefore non-statutory.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Blanset (U.S. Patent 4,744,048).

7. As to claim 1, Blanset discloses a method for preventing an unauthorized display source from overwriting an image displayed by an authorized display source on a video display system wherein the unauthorized display source comprises software code that utilizes a native operating system (col. 1, lines 31-54; col. 4, lines 49-65; MS-DOS applications are executed in "real" mode, as opposed to the protected mode used by UNIX; since MS-DOS is accessing the processor directly, and UNIX is not, MS-DOS would be considered the "native" operating system) to generate output for display on the video display system (col. 1, line 57-col. 2, line 20), comprising:

under control of code that is independent of the native operating system, generating a display region mask that defines a display area of the video display system (col. 1, line 57-col. 2, line 20; translation circuitry with associated code sets up a "screen buffer" and an "alternate screen buffer"; the "screen buffer" corresponds to the locations in memory that will actually be output to a screen and therefore corresponds to a "mask" that represents a display region; note that the translation circuitry must be independent of MS-DOS, since MS-DOS is totally unaware whether it is using the display region buffer or non-display region buffer);

associating the generated display region mask with the authorized display source (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; MS-DOS or UNIX is allowed to write to the display region buffer depending on which is authorized);

and upon receiving an indication from the authorized display source to write the image within the area defined by the associated display region mask, transparently writing the image onto the display area, such that output from an unauthorized source is not displayed within the area defined by the associated display region mask in a manner that is independent of any display ordering imposed by the native operating system (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; the translation circuitry receives indication from whichever OS is authorized; if UNIX is authorized, its image is written onto the display buffer transparent to the MS-DOS native operating system; output from MS-DOS is not displayed regardless of what order is imposed by MS-DOS).

8. As to claim 2, Blanset discloses a method for preventing a first application from overwriting data displayed by a second application on a video display system, comprising:

generating a display region mask that defines a display area of the video display system (col. 1, line 57-col. 2, line 20; translation circuitry with associated code sets up a "screen buffer" and an "alternate screen buffer"; the "screen buffer" corresponds to the locations in memory that will actually be output to a screen and therefore corresponds to a "mask" that represents a display region);

associating the generated display region mask with the second application (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; UNIX applications are allowed to write to the display region buffer if UNIX is authorized; in this case, a UNIX application would be a "second application" while an MS-DOS application would be a "first application");

receiving data for the first application from a graphics device interface associated with a native operating system (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; data is received from the MS-DOS system, inherently through a graphics device interface of some sort);

modifying a portion of the received data intended for the display area defined by the display region mask to prevent the data from the first application from being displayed in the display area defined by the display region mask (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; col. 9, lines 9-24; the data associated with the MS-DOS application is modified by moving it to an alternate screen buffer that does not actually output values to the display; address values associated with the data are incremented);

and transferring the data, including the modified portion, to a display driver associated with the video display system (col. 8, lines 24-55; all data is transferred to a screen buffer or alternate screen buffer; the screen buffer is then used to drive the display; the modified portion is transferred to the screen buffer when the other operating system is selected).

9. As to claim 3, Blanset discloses a method wherein the modification of data is performed by a display filter positioned intermediate the graphics device interface and the video display driver to filter data from the first application intended for the display area defined by the display region mask (col. 9, lines 9-44; the ROM filters data into the correct memory location; its position is intermediate the operating system's display device communication and the buffer that is used to drive the display).

10. As to claim 4, Blanset discloses a method further comprising receiving data for the second application from the graphics device interface and replacing the modified portion of the received data for the first application with the received data for the second application (col. 8, lines 24-55; the data for each application is swapped or "replaced" when authorization switches from one application to another).

11. As to claim 5, Blanset discloses a method further comprising resizing the display area to create a first display area under control of the native operating system and a second display area outside control of the native operating system (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; by adding the alternate screen buffer, the total area available for writing the display contents has been effectively resized into double the area; one of these buffers is under control of the native OS, while the other is not).

12. As to claim 6, Blanset discloses a method wherein the display region mask defines the second display area outside control of the native operating system as the display area of the video display system (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; the screen buffer that is outside control of MS-DOS, the native operating system, can be selected as the display area, depending on which OS is authorized).

13. As to claim 7, Blanset discloses a method wherein the first application is an executable application of the native operating system (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; the first application is run by MS-DOS, which is the native operating system).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over NN96057 in view of Blanset.

16. As to claims 8 and 12, NN96057 discloses a system for preventing a first application from overwriting data displayed by a second application on a video display system, comprising:

a programming interface to provide a routine to associate the generated display region mask with the second application (p. 1, SMAN is an interface that is set up to enable or disable video access for an application);



and a display filter to:

intercept function calls from a graphics device interface associated with a native operating system (p. 1, SMAN intercepts function calls from OS/2);

and when the display filter detects that an intercepted function call from the first application is specifying transmission of data to the masked display area, prevent the data from the first application from being displayed in the masked display area (p. 1, SMAN disables access and sends a return code to the GUI attempting access).

NN96057 does not disclose a system that creates a display region mask that defines a masked display area of the video display system and also clips a portion of the received data intended for the masked display area. Blanset, however, discloses creation of a display region mask defining a masked display area (col. 1, line 57-col. 2, line 20; translation circuitry with associated code sets up a "screen buffer" and an "alternate screen buffer"; the "screen buffer" corresponds to the locations in memory that will actually be output to a screen and therefore corresponds to a "mask" that represents a display region). Data belonging to an unauthorized program is clipped to the alternate screen buffer. The motivation for this is to ensure that an unauthorized program does not write to the display (col. 1, lines 50-54) by "fooling" it into thinking that it has (col. 1, lines 68-col. 2, line 12). It would have been obvious to one skilled in the art to modify NN96057 to create a display region mask and clip data from an unauthorized program in order to ensure that an unauthorized program does not display data as taught by Blanset.

Art Unit: 2628

17. As to claim 9, see the rejection to claim 3. Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

18. As to claim 10, see the rejection to claim 5. Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

19. As to claim 11, Blanset discloses a system wherein the masked display region mask is positioned within the second display area (col. 1, line 57-col. 2, line 20; col. 8, lines 24-55; the screen buffer that corresponds to the masked display region is outside control of MS-DOS, the native operating system, and therefore corresponds to the "second display area"). Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

20. As to claim 12, NN96057 discloses a system further comprising instructions to cause the computer processor to transfer the data to a display driver associated with the video display system (p. 1 and figure, data is passed to "VMAN", the video manager). NN96057 does not disclose a "clipped portion" of data, but Blanset does, as explained in the rejection to claim 8. Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

21. As to claim 14, see the rejection to claim 4. Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

22. As to claim 15, see the rejection to claim 5. Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

23. As to claim 16, see the rejection to claim 6. Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

24. As to claim 17, see the rejection to claim 7. Motivation for the combination of NN96057 and Blanset can be found in the rejection to claim 8.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Richer whose telephone number is (571) 272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMR  
10/26/07

A handwritten signature in black ink, appearing to read 'K. M. Tung', with a long, sweeping vertical line extending downwards from the end of the signature.

KEE M. TUNG  
SUPERVISORY PATENT EXAMINER